

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT JUSTUS,) Case No.: 1:25-cv-0138 JLT SAB
Plaintiff,)
v.) ORDER ADOPTING IN FULL THE FINDINGS
J. DOERER, et al.,) AND RECOMMENDATIONS AND DENYING
Defendants.) PLAINTIFF'S MOTION TO CREATE A CLASS
) ACTION
) (Docs. 9, 11)
)

Robert Justus seeks to hold the defendants liable for violations of his civil rights while incarcerated at the United States Penitentiary Atwater. (*See generally* Doc. 1.) Plaintiff contends “[t]here are at least 27 plaintiffs that filed substantially the same claims in this court,” and requests the Court “create a class action under FRCP Rule 23.” (Doc. 9 at 1.)

The magistrate judge noted that “Plaintiff is a non-lawyer proceeding without counsel, and it is well established that a layperson cannot ordinarily represent the interests of a class.” (Doc. 11 at 1, citing, *e.g.*, *McShane v. United States*, 366 F.2d 286 (9th Cir. 1966).) In addition, the magistrate judge noted, “This rule becomes almost absolute when, as here, the putative class representative is incarcerated and proceeding pro se.” (*Id.* at 1-2, citing *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975).) Because Plaintiff could not “fairly and adequately protect the interests of the class” as required by Rule 23 of the Federal Rules of Civil Procedure, the magistrate judge recommended the Court deny the motion for class certification. (*Id.* at 2.)

1 The Court served the Findings and Recommendations on Plaintiff and notified him that any
2 objections were due within 14 days. (Doc. 11 at 2.) The Court advised Plaintiff that the “failure to file
3 objections within the specified time may result in the waiver of rights on appeal.” (*Id.*, citing *Wilkerson*
4 *v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file objections, and the time to do
5 so has passed.

6 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. Having
7 carefully reviewed the matter, the Court concludes the Findings and Recommendations are supported
8 by the record and proper analysis. Thus, the Court **ORDERS**:

9 1. The Findings and Recommendations dated March 13, 2025 (Doc. 11) are **ADOPTED**
10 in full.
11 2. Plaintiff’s motion to create a class action (Doc. 9) is **DENIED**.

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13 IT IS SO ORDERED.

14 Dated: April 10, 2025



UNITED STATES DISTRICT JUDGE

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